IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 9784 of 2005(M)

IA 50/05 IN OS 517/03 OF THE MUNSIFF'S COURT, CHITTUR

PETITIONER:

AMMAJI, W/O. USMAN ALI,
AGED 57 YEARS, DOOR NO.15/71, KOZHINJAMPARA BAZAR
CHITTUR TALUK, PALAKKAD.

BY ADV. SRI.K.ABDUL JAWAD
SRI.U.MUHAMMED MUSTHAFA SRI.V.P.MOHAMMED NIYAZ

RESPONDENTS:

---

1. STATE OF KERALA, REP. BY SECRETARY TO
GOVERNMENT, REVENUE DEPARTMENT,
THIRUVANANTHAPURAM.

2. ARUMUGHAN, S/O. SUPPU GOUNDER,
AGED 69 YEARS, ADVOCATE, VALIYAVALLAMPATHY
VILLAGE, NATTUKAL, KOZHINJAMPARA.

3. MEHABUNNEESA, DOOR NO.15/71,
KOZHINJAMPARA BAZAR, CHITTUR, PALAKKAD.

4. KHAJA MOIDEEN, S/O. USMAN ALI,
PERAMBUR, CHENNAI, TAMIL NADU.

5. AYSHA BEEGUM, W/O. BABUJAN,
C.T.C. COLONY, KOTTUR ROAD, POLLACHI,TAMIL NADU.

6. NAZEEMA, C.T.C. COLONY,
KOTTUR ROAD, POLLACHI, TAMIL NADU.

7. HASEENA, DOOR NO.15/71,
KOZHINJAMPARA, CHITTUR, PALAKKAD.

BY ADV. SRI.K.M.MOHAMMED KUNHI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

==========

W.P(C).No.9784 of 2005

==========

Dated this the 16th day of October, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the Munsiff, Chittur whereby he directed a particular petition to be affixed with stamp value of Rs.5/- instead of Rs.2/-. The point that is argued before me is that it is Article 11(g) of the Kerala Court Fees and Suits Valuation Act that is applicable and not Article 11(b) of the said Act. Article 11(b)of the Act contemplates that when application or petition presented to any civil court other than a principal civil court of original jurisdiction the stamp to be affixed is Rs.5/-. Article 11(g) of the Act contemplates that when an application or petition presented to any court, or to any Magistrate in his executive capacity and not otherwise provided for in this Act the stamp value must be Rs.2/-. So a reading of Article 11(b) and Article 11(g) of the Act will make it clear that if it is a case where Article 11(b) of the Act is not attracted, Article

11(g) of the Act will come into play as it is not otherwise provided and the value must be of Rs.2/- and not of Rs.5/-. If it is Article 11(b) of the Act that is applicable, then the stamp value should be Rs.5/-. Article 11(b) of the Act very clearly envisages a situation when an application is filed before a civil court other than the principal civil court of original jurisdiction.

2. Then the short question is whether a Munsiff Court can also be deemed to be a principal civil court of original jurisdiction. A reference is made to the definition of District in Section 2(4) of C.P.C. where the local limits of jurisdiction of a principal civil court of original jurisdiction (herein after called as a District Court). Learned counsel would point out that it refers to the definition of a District. But the description deals with the position of the jurisdiction of a principal civil court of original jurisdiction (hereinafter called the District Court). Similarly, there are similar provisions under the Indian Divorce Act, Arbitration Act, etc. where also the jurisdiction is conferred upon a principal civil court of original jurisdiction. It has been interpreted that the court mentioned therein is the District Court which is having the original jurisdiction over the entire District. Therefore, the

contention that the Munsiff Court also has to be construed as a principal civil court of original jurisdiction cannot be accepted.

3. Learned counsel would contend that Article 11(b) of the Act only deals with a situation where the subject matter is less than Rs.50/- it has to be understood that the word used is or and there is no connection by the word "and" with the first clause. Therefore, I find that the learned Munsiff was right in holding that such applications are only covered by Article 11(b) of the Act where the stamp value to be affixed is of Rs.5/-. There is no illegality or irregularity and therefore I confirm the said order and dismiss the Writ Petition.

M.N.Krishnan,
Judge.

ess 17/10